

AMENDED IN SENATE APRIL 4, 2000

SENATE BILL

No. 1905

Introduced by Senator Sher

February 24, 2000

An act to amend Sections 798.4, 798.23, ~~798.56~~, and 798.58 of the Civil Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1905, as amended, Sher. Mobilehomes parks: homeowners: renting.

Existing law defines a mobilehome park as land where 2 or more mobilehome sites are rented or offered for rent to accommodate mobilehomes for human habitation.

This bill would revise the definition of mobilehome park to include land where 2 or more mobilehomes are rented, or held out for rent, for human habitation.

Existing law provides that the owner of any park, and a person employed by the owner, is subject to all rules and regulations of the mobilehome park, with specified exceptions regarding the age of residents and guests and acts undertaken in the course of the owner's maintenance, management, and business operation responsibilities. Existing law further provides that these provisions do not validate, invalidate, or express a legislative policy in favor of, or opposing, a rule regarding the subletting of a mobilehome park space by a tenant.

This bill would delete the provisions concerning the subletting of a mobilehome park space by a tenant and the status of legislative policy in this regard. The bill would instead

provide that ownership, as defined, or management of a park, or both, may adopt rules permitting or prohibiting the renting of mobilehomes by homeowners, and if renting by homeowners is prohibited, ownership and management would also be precluded from doing so. If renting by homeowners is permitted, ownership and management would be authorized to adopt reasonable rules in this regard including, but not limited to, specified items. The bill would provide that its provisions do not apply to a rental agreement that explicitly prohibit or permit renting of mobilehomes entered into prior to January 1, 2001, notwithstanding a provision that incorporates mobilehome park rules and regulations into the rental agreement.

~~Existing law provides that a tenancy in a mobilehome park may be terminated only for specific reasons, one of which is a change of use of the park or any portion thereof.~~

~~This bill would provide that a change of use for the purpose of terminating a tenancy in a mobilehome park does not include the purchase by ownership or management of existing mobilehomes in a mobilehome park for the purpose of renting those mobilehomes and their sites, or both, to renters. This bill would also state that the Legislature finds that owners of mobilehomes in mobilehome parks are entitled to unique protection from actual and constructive eviction.~~

Existing law *specifies the reasons for termination of a tenancy in a mobilehome park*, and prohibits a tenancy in a mobilehome park from being terminated to make the homeowner's site available for a person who purchased a mobilehome from a park owner or his *or her* agent.

This bill would ~~revise the above provisions to~~ also prohibit a tenancy in ~~the~~ a mobilehome park from being terminated to make the homeowner's site available for a person who purchased or proposes to purchase, or who rents or proposes to rent, a mobilehome from a park owner or the owner's agent.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 798.4 of the Civil Code is amended to read:

798.4. “Mobilehome park” is an area of land where two or more mobilehomes are rented, or held out for rent, for human habitation, or two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation, or both.

SEC. 2. Section 798.23 of the Civil Code is amended to read:

798.23. (a) The owner of the park, and any person employed by the park, shall be subject to, and comply with, all park rules and regulations, to the same extent as residents and their guests.

(b) Subdivision (a) of this section shall not apply to either of the following:

(1) Any rule or regulation that governs the age of any resident or guest.

(2) Acts of a park owner or park employee which are undertaken to fulfill a park owner’s maintenance, management, and business operation responsibilities.

(c) (1) The ownership or management, or both, may adopt rules permitting or prohibiting renting of mobilehomes by homeowners in the park and rules requiring that mobilehomes in the park be occupied by their owners. If the ownership or management, or both, adopts rules prohibiting the renting of mobilehomes by tenants or rules requiring that mobilehomes be occupied by their owners, the ownership and management may not rent mobilehomes in the park. When adopting a rule permitting the renting of mobilehomes, the ownership or management, or both, may also adopt reasonable rules regarding implementation of the rules, including, but not limited to, the following:

(A) The ownership and management may approve the prospective renter.

(B) The minimum term of the rental may be fixed.

(C) The renter may be required to comply with all rules and regulations of the park.

(D) The homeowner may remain liable for the mobilehome park rent and other park charges.

(E) ~~The—~~*Prior to termination of the homeowner's tenancy in the mobilehome park, the mobilehome owner may be required shall be allowed* to prosecute an action for unlawful detainer, pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure, in order to remove the renter from the mobilehome park for the renter's violation of the rules and regulations of the park.

(F) The failure of the mobilehome owner to secure the renter's compliance with the rules and regulations of the park may result in the termination of the homeowner's tenancy in the mobilehome park, *in accordance with Section 798.56.*

(2) This subdivision does not apply to a rental agreement entered into prior to January 1, 2001, that explicitly prohibits or permits renting of a mobilehome, notwithstanding a provision that incorporates mobilehome park rules and regulations into the rental agreement.

(3) For the purposes of this section and Section 798.56, ownership means the owner of the park.

~~SEC. 3. Section 798.56 of the Civil Code is amended to read:~~

~~798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:~~

~~(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.~~

~~(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.~~

~~(c) Conviction of the homeowner or resident for prostitution or a felony controlled substance offense if the act resulting in the conviction was committed anywhere~~

1 ~~on the premises of the mobilehome park, including, but~~
2 ~~not limited to, within the homeowner's mobilehome.~~

3 ~~However the tenancy may not be terminated for the~~
4 ~~reason specified in this subdivision if the person convicted~~
5 ~~of the offense has permanently vacated, and does not~~
6 ~~subsequently reoccupy, the mobilehome.~~

7 ~~(d) Failure of the homeowner or resident to comply~~
8 ~~with a reasonable rule or regulation of the park that is part~~
9 ~~of the rental agreement or any amendment thereto.~~

10 ~~No act or omission of the homeowner or resident shall~~
11 ~~constitute a failure to comply with a reasonable rule or~~
12 ~~regulation unless and until the management has given~~
13 ~~the homeowner written notice of the alleged rule or~~
14 ~~regulation violation and the homeowner or resident has~~
15 ~~failed to adhere to the rule or regulation within seven~~
16 ~~days. However, if a homeowner has been given a written~~
17 ~~notice of an alleged violation of the same rule or~~
18 ~~regulation on three or more occasions within a 12-month~~
19 ~~period after the homeowner or resident has violated that~~
20 ~~rule or regulation, no written notice shall be required for~~
21 ~~a subsequent violation of the same rule or regulation.~~

22 ~~Nothing in this subdivision shall relieve the~~
23 ~~management from its obligation to demonstrate that a~~
24 ~~rule or regulation has in fact been violated.~~

25 ~~(e) (1) Nonpayment of rent, utility charges, or~~
26 ~~reasonable incidental service charges; provided that the~~
27 ~~amount due has been unpaid for a period of at least five~~
28 ~~days from its due date, and provided that the homeowner~~
29 ~~shall be given a three-day written notice subsequent to~~
30 ~~that five-day period to pay the amount due or to vacate~~
31 ~~the tenancy. For purposes of this subdivision, the five-day~~
32 ~~period does not include the date the payment is due. The~~
33 ~~three-day written notice shall be given to the homeowner~~
34 ~~in the manner prescribed by Section 1162 of the Code of~~
35 ~~Civil Procedure. A copy of this notice shall be sent to the~~
36 ~~persons or entities specified in subdivision (b) of Section~~
37 ~~798.55 within 10 days after notice is delivered to the~~
38 ~~homeowner. If the homeowner cures the default, the~~
39 ~~notice need not be sent. The notice may be given at the~~

1 same time as the 60 days' notice required for termination
2 of the tenancy.

3 (2) Payment by the homeowner prior to the
4 expiration of the three-day notice period shall cure a
5 default under this subdivision. If the homeowner does not
6 pay prior to the expiration of the three-day notice period,
7 the homeowner shall remain liable for all payments due
8 up until the time the tenancy is vacated.

9 (3) Payment by the legal owner, as defined in Section
10 18005.8 of the Health and Safety Code, any junior
11 lienholder, as defined in Section 18005.3 of the Health and
12 Safety Code, or the registered owner, as defined in
13 Section 18009.5 of the Health and Safety Code, if other
14 than the homeowner, on behalf of the homeowner prior
15 to the expiration of 30 calendar days following the mailing
16 of the notice to the legal owner, each junior lienholder,
17 and the registered owner provided in subdivision (b) of
18 Section 798.55, shall cure a default under this subdivision
19 with respect to that payment.

20 (4) Cure of a default of rent, utility charges, or
21 reasonable incidental service charges by the legal owner,
22 any junior lienholder, or the registered owner, if other
23 than the homeowner, as provided by this subdivision,
24 may not be exercised more than twice during a 12-month
25 period.

26 (5) If a homeowner has been given a three-day notice
27 to pay the amount due or to vacate the tenancy on three
28 or more occasions within the preceding 12-month period,
29 no written three-day notice shall be required in the case
30 of a subsequent nonpayment of rent, utility charges, or
31 reasonable incidental service charges.

32 In that event, the management shall give written
33 notice to the homeowner in the manner prescribed by
34 Section 1162 of the Code of Civil Procedure to remove the
35 mobilehome from the park within a period of not less than
36 60 days, which period shall be specified in the notice. A
37 copy of this notice shall be sent to the legal owner, each
38 junior lienholder, and the registered owner of the
39 mobilehome, if other than the homeowner, as specified
40 in paragraph (b) of Section 798.55, by certified or

1 ~~registered mail return receipt requested within 10 days~~
2 ~~after notice is sent to the homeowner.~~

3 ~~(6) When a copy of the 60 days' notice described in~~
4 ~~paragraph (5) is sent to the legal owner, each junior~~
5 ~~lienholder, and the registered owner of the mobilehome,~~
6 ~~if other than the homeowner, the default may be cured~~
7 ~~by any of them on behalf of the homeowner prior to the~~
8 ~~expiration of 30 calendar days following the mailing of the~~
9 ~~notice, if all of the following conditions exist:~~

10 ~~(A) A copy of a three-day notice sent pursuant to~~
11 ~~subdivision (b) of Section 798.55 to a homeowner for the~~
12 ~~nonpayment of rent, utility charges, or reasonable~~
13 ~~incidental service charges was not sent to the legal owner,~~
14 ~~junior lienholder, or registered owner, of the~~
15 ~~mobilehome, if other than the homeowner, during the~~
16 ~~preceding 12-month period.~~

17 ~~(B) The legal owner, junior lienholder, or registered~~
18 ~~owner of the mobilehome, if other than the homeowner,~~
19 ~~has not previously cured a default of the homeowner~~
20 ~~during the preceding 12-month period.~~

21 ~~(C) The legal owner, junior lienholder or registered~~
22 ~~owner, if other than the homeowner, is not a financial~~
23 ~~institution or mobilehome dealer.~~

24 ~~If the default is cured by the legal owner, junior~~
25 ~~lienholder, or registered owner within the 30-day period,~~
26 ~~the notice to remove the mobilehome from the park~~
27 ~~described in paragraph (5) shall be rescinded.~~

28 ~~(f) Condemnation of the park.~~

29 ~~(g) Change of use of the park or any portion thereof,~~
30 ~~provided:~~

31 ~~(1) The management gives the homeowners at least 15~~
32 ~~days' written notice that the management will be~~
33 ~~appearing before a local governmental board,~~
34 ~~commission, or body to request permits for a change of~~
35 ~~use of the mobilehome park.~~

36 ~~(2) After all required permits requesting a change of~~
37 ~~use have been approved by the local governmental~~
38 ~~board, commission, or body, the management shall give~~
39 ~~the homeowners six months' or more written notice of~~
40 ~~termination of tenancy.~~

~~(3) If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.~~

~~(4) The management gives each proposed homeowner written notice thereof prior to the inception of his or her tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.~~

~~(5) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.~~

~~(6) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.~~

~~(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.~~

~~(i) For purposes of this section, "financial institution" means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.~~

~~(j) For the purposes of subdivision (g), change of use does not include the purchase of existing mobilehomes in a mobilehome park by ownership or management, or both, for the purpose of renting those mobilehomes and their sites, or both, to renters.~~

~~The Legislature finds and declares that the owners of mobilehomes situated in mobilehome parks are entitled~~

~~to unique protection from actual or constructive eviction,
such as that resulting from a purported change of use of
a mobilehome park by ownership or management, or
both, with the intent to continue operating the
mobilehome park as a residential facility by renting
mobilehomes or their sites, or both, that have been
acquired from park residents after a notice of a proposed
change of use or a notice of closure.~~

~~SEC. 4.~~

SEC. 3. Section 798.58 of the Civil Code is amended
to read:

798.58. ~~No~~—*Tenancy may only be terminated for
reasons contained in Section 798.56, and no* tenancy shall
be terminated for the purpose of making a homeowner's
site available for a person who purchased or proposes to
purchase, or rents or proposes to rent, a mobilehome from
the owner of the park or the owner's agent.